

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

KEITH HENDERSON,

Petitioner,

VS.

ROBERT TOOLE, *et al.*,

Respondents.

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CASE NO.: 7:15-CV-38-HL-TQL

ORDER

Petitioner Keith Henderson, an inmate currently confined at Valdosta State Prison, filed a largely incomprehensible *pro se* pleading in the United States District Court for the District of Minnesota on March 6, 2015. The case was construed as a petition for habeas corpus and transferred to this Court. (Order 1, Mar. 18, 2015, ECF No. 4.)

Because the relief requested in Petitioner's pleading was unclear, the United States Magistrate Judge ordered Petitioner to recast his pleading on either a standard § 1983 form or a form habeas application. (Order 2, Apr. 20, 2015, ECF No. 7.) Petitioner was also directed to either submit the appropriate filing fee or file a proper motion for leave to proceed *in forma pauperis* ("IFP"). *Id.* Petitioner was advised that the IFP motion he had already filed was incomplete because it did not include a complete, certified copy of his prison trust fund account statement. *Id.* Petitioner was warned that failure to comply with the Magistrate Judge's order would result in dismissal of his pleading. *Id.* at 3. Petitioner was given twenty-one (21) days to comply with the Court's Order. *Id.* at 2.

When Petitioner failed to comply within twenty-one days, the Magistrate Judge ordered Petitioner on May 22, 2015 to respond and show cause why his lawsuit should not be dismissed for failure to comply with the Court's orders. (Order, May 22, 2015, ECF No. 8.) Petitioner's response was due within twenty-one (21) days of the date of the Order and Petitioner was again advised that failure to respond would result in dismissal of his pleading. *Id.* at 1-2.

On June 4, 2015, Petitioner filed a response to the show cause order that consisted of a form pauper's affidavit from the Georgia Court of Appeals. (Attach. 1 to Pet'r Resp. Show Cause Order, ECF No. 9-1.) Petitioner's response did not contain a certified copy of his prison trust fund account statement, nor did it contain a recast pleading that would show whether Petitioner intended to file a petition for habeas corpus or a complaint under 42 U.S.C. § 1983. To date, Petitioner has not paid a filing fee in this case.

A district court may dismiss an action *sua sponte* for failure to prosecute or failure to obey a court order. *See Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam). Thus, because of Petitioner's failure to pay the required filing fee, failure to comply with the Court's instructions and orders, and failure to otherwise diligently prosecute this action, his petition shall be **DISMISSED**. *See* Fed. R. Civ. P. 41. This dismissal is without prejudice.

SO ORDERED, this 23rd day of July, 2015.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE